

## Leadership...Service...Accountability

July 9, 2012

Alexa Posny, Ph.D. Assistant Secretary United States Department of Education 400 Maryland Avenue SW Washington, DC 20202

Dear Dr. Posny:

I am writing this letter to express my concern with the U.S. Department of Education, Office of Special Education Programs' (OSEP) determination that Utah "needs intervention" in meeting the requirements of IDEA and to request that OSEP reconsider its findings.

Utah's determination letter cited *one* specific factor that resulted in the determination that Utah "needs intervention"—that FFY 2010 APR data reflected 12.41% compliance for Indicator 13. With the exception of Indicator 13, for which the State missed an arbitrary OSEP target used solely for the determination process, Utah demonstrated a high level of compliance and, as of the date of the submission of the APR, had corrected all items of noncompliance and remains in compliance with the requirements of Part B of the IDEA. Although the Indicator 13 data were initially low, Utah's SEA and LEAs took immediate action to rectify the noncompliance, which was corrected prior to the submission of the FFY 2010 APR. Utah submitted valid and reliable data, even to the point of improving the data collection and reporting process for Indicator 13, and does not have a history of noncompliance. In fact, Utah's history demonstrates an ongoing willingness to improve services to students with disabilities, as demonstrated by the SPP/APR, dispute resolution data, and OSEP monitoring visit results.

I am unable to understand why, when OSEP's document "How the Department Made Determinations under Section 616(d) of the IDEA in 2012: Part B" describes that OSEP utilized other public information available, including monitoring data from verification visits and other public information, Utah's determination letter focused solely on and referenced a single point of data. This recent OSEP decision does not seem to be in alignment with OSEP's recent announcements regarding the temporary suspension of monitoring to focus more on improving student results; while the temporary reduction of the Indicator 13 data signaled a need for additional and immediate technical assistance regarding documenting school to post-school transition planning, the data did not suggest a denial of a free appropriate public education (FAPE) for any students, nor were required special education and related services to students with disabilities impacted.

Utah has a strong system of general supervision and the Utah State Office of Education maintains a high level of expectation for all LEAs to correct noncompliance with the requirements of IDEA within the federally mandated one year timeline. When the USOE

provides written notification of noncompliance, technical assistance is provided to the LEA throughout the year. If the noncompliance is not corrected and verified within one year, swift enforcement action is taken and USOE continues to work with that LEA until it does meet the requirements of IDEA. Utah should not be penalized for holding LEAs accountable to our high data-driven expectations and standards for compliance. Moreover, the "needs intervention" determination impacts Utah's credibility with the public at large because it communicates that Utah's general supervision is not effective and requires improvement. In fact, Utah's general supervision system sets high expectations for LEAs and has already resulted in the necessary changes, expectations we are not willing to lower because in the end we are striving for correction that will be sustained over time, not just correction for the present moment.

I am respectfully requesting reconsideration of the Utah "needs intervention" determination to "meets requirements." I look forward to your response.

Sincerely,

Glenna Gallo

State Director of Special Education

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Utah State Office of Education

cc: Greg Corr, Director, Monitoring and State Improvement Planning Division